UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1993/23/Rev.1*
17 November 1993

ENGLISH
Original: ENGLISH/FRENCH/SPANISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-fifth session
Agenda 10 (b)

THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES: QUESTION OF HUMAN RIGHTS AND STATES OF EMERGENCY

Sixth revised annual report and list of States which, since 1 January 1985, have proclaimed, extended or terminated a state of emergency, presented by Mr. Leandro Despouy, Special Rapporteur appointed pursuant to Economic and Social Council resolution 1985/37

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* This document is a revised and updated version, for presentation to the Commission on Human Rights at its fiftieth session, of the sixth annual report submitted to the Sub-Commission, at its forty-fifth session (E/CN.4/Sub.2/1993/23).

GE.93-85601 (E)

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Introduction

1. By resolution 10 (XXX) of 31 August 1977, the Sub-Commission on Prevention of Discrimination and Protection of Minorities expressed its concern at the manner in which certain countries applied the provisions relating to situations known as states of siege or emergency. Convinced that a connection existed between such application and the situation regarding human rights in the said countries, it considered that a comprehensive study of the implications for human rights of recent developments in that sphere would be conducive to the achievement of the aims pursued by the United Nations in the field of human rights. The comprehensive study was presented by Ms. Nicole Questiaux at the thirty-fifth session of the Sub-Commission (E/CN.4/Sub.2/1982/15).

2. In resolution 1983/18, the Commission on Human Rights requested the Sub-Commission to propose for the Commission's consideration measures designed to ensure the respect throughout the world of human rights and fundamental freedoms in situations where states of siege or emergency existed, especially respect for those rights referred to in article 4, paragraph 2, of the International Covenant on Civil and Political Rights.

3. By resolution 1983/30, the Sub-Commission decided to include in its agenda an item entitled "Implementation of the right of derogation provided for under article 4 of the International Covenant on Civil and Political Rights and violations of human rights". Subsequently, by its resolution 1987/25, the Sub-Commission decided to examine this issue, as a matter of high priority, under the agenda item "The administration of justice and the human rights of detainees: (b) Question of human rights and states of emergency".

4. At the Sub-Commission's request, the Economic and Social Council, by resolution 1985/37, authorized the Sub-Commission to appoint a special rapporteur to carry out the work referred to in Commission resolution 1983/18 and Sub-Commission resolution 1983/30.

5. The mandate of the Special Rapporteur for that task, Mr. Leandro Despouy, as laid down in these resolutions as well as in subsequent Sub-Commission resolutions 1985/32, 1987/25, 1988/24, 1989/28, 1990/19, 1991/18 and 1992/22, includes the following main tasks: (a) to draw up and update annually a list of countries which proclaim or terminate a state of emergency; (b) to examine, in annual reports, questions of compliance by States with internal and international rules guaranteeing the legality of the introduction of a state of emergency; (c) to study the impact of emergency measures on human rights; (d) to recommend concrete measures with a view to guaranteeing respect for human rights in situations of state of siege or emergency.

6. The Special Rapporteur has presented to the Sub-Commission and to the Commission on Human Rights an explanatory paper (E/CN.4/Sub.2/1985/19) and his first, second, third, fourth and fifth reports and lists of States which, since 1 January 1985, have proclaimed, extended or terminated a state of emergency, including the revised and updated versions of those reports (E/CN.4/Sub.2/1987/19/Rev.1 and Add.1-2; E/CN.4/Sub.2/1988/18/Rev.1; E/CN.4/Sub.2/1989/30/Rev.2; E/CN.4/Sub.2/1991/28/Rev.1; E/CN.4/Sub.2/1992/23/Rev.1).

7. Pursuant to the request contained in decision 1991/262 of the Economic and Social Council, the Special Rapporteur presented to the Sub-Commission and to the Commission on Human Rights the draft guidelines for the development of legislation on states of emergency, which were continued in annex I to his fourth annual report (E/CN.4/Sub.2/1991/28/Rev.1).

8. By its resolution 1993/42, the Commission on Human Rights, taking note of Sub-Commission resolution 1992/22, recommended to the Economic and Social Council to endorse the request by the Sub-Commission to Mr. Leandro Despouy, Special Rapporteur on human rights and states of emergency, to continue to update the list on states of emergency and to include in his annual report to the Sub-Commission and the Commission on Human Rights recommendations on inalienable or non-derogable rights. This recommendation was endorsed by the Economic and Social Council in its decision 1993/265.

9. In pursuance of this decision, as well as of other pertinent resolutions of the Commission on Human Rights and the Sub-Commission, the Special Rapporteur presented to the Sub-Commission, at its forty-fifth session, his sixth annual report (E/CN.4/Sub.2/1993/23).

10. In its resolution 1993/28, the Sub-Commission invited the Special Rapporteur, inter alia, to update his sixth report so that the Commission on Human Rights, at its fiftieth session, would have before it the most recent and accurate information available. The present revised and updated version of the sixth report has been prepared in pursuance of that resolution for presentation to the Commission on Human Rights at its fiftieth session.

I. LIST OF STATES WHICH, SINCE 1 JANUARY 1985, HAVE PROCLAIMED, EXTENDED OR TERMINATED A STATE OF EMERGENCY

11. By drawing up this list of States which have proclaimed, extended or terminated a state of emergency, the Special Rapporteur has endeavoured, within the limits of the information available to him, to give the Sub-Commission and the Commission as complete a picture as possible of the world situation regarding states of emergency since 1 January 1985. The present composite list contains a summary of information which had already been included in his five previous reports as well as new information received from Governments, United Nations bodies and other intergovernmental organizations, communicated by non-governmental organizations in consultative status with the Economic and Social Council and published in the press since November 1992, when his fifth revised report was issued.

12. The purpose of this recapitulation is to give an overall view of the world situation regarding states of emergency and at the same time to improve the list prepared by the Special Rapporteur. To that end, it is essential to benefit once more from the cooperation of the Governments concerned, the non-governmental organizations and all those in a position to supply reliable information capable of correcting errors or remedying gaps which may exist in that list.

13. The Special Rapporteur periodically solicits information from all Governments, competent United Nations organs, specialized agencies and other intergovernmental and non-governmental organizations concerned. His latest letter requesting information was dated 4 December 1992. A list of replies and other communications received is contained in annex I.

14. Whenever the Special Rapporteur has learned, generally through the international press, of the adoption by a Government of emergency measures involving prima facie restriction of the exercise of human rights (partial suspension of the Constitution, curfew, etc.) he has immediately addressed that Government, through the Secretary-General, requesting specific and detailed information on the nature of the measures in force, the legal basis for them and, above all, the effect they are having or have had on human rights in general.

15. In drawing up this list, the Special Rapporteur also took into account those countries which have and apply ordinary legislation empowering the executive to adopt emergency measures (such as administrative or ministerial detention for long periods) without the need for official proclamation of a state of emergency in order to do so.

16. According to the information available to the Special Rapporteur, in the following 85 States and territories, since 1 January 1985, measures have been taken which constituted the proclamation, extension, maintenance or termination of emergency regimes in various forms:

Afghanistan: State of emergency proclaimed on 19 February 1989. Lifted on 28 May 1990.

Sources: Interim reports on the situation of human rights in Afghanistan, prepared by Mr. F. Ermacora, Special Rapporteur of the Commission on Human Rights (documents A/44/669, para. 20 (e), and A/45/664, para. 36).

(Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Algeria:* State of siege proclaimed on 6 October 1988. Terminated on 12 October 1988.

State of siege decreed on 4 June 1991 for a period of four months. Terminated on 29 September 1991.

Sources: Letter from the Government dated 28 April 1989; Notifications of the Government to the United Nations Secretary-General dated 19 June and 3 October 1991.

State of emergency proclaimed on 9 February 1992 for a duration of 12 months. Indefinite overnight curfew decreed on 2 December 1992.

On 7 February 1993, the state of emergency was extended indefinitely.

Sources: Notification of the Government to the United Nations Secretary-General dated 13 February 1992; information published in the press.

(Third report, E/CN.4/Sub.2/1989/30/Rev.2, paras. 21 and 24; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Argentina: State of siege proclaimed on 25 October 1985 for 60 days. Terminated on 7 December 1985.

Sources: Letter from the Government dated 12 August 1987.

State of siege proclaimed on 29 May 1989 for 30 days. Lifted on 27 June 1989.

Sources: Notifications of the Government to the United Nations Secretary-General dated 7 June 1989 and 11 July 1989.

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* An asterisk accompanying the name of a country or a territory indicates that the state of emergency there is still in force.

(First report, E/CN.4/Sub.2/1987/19/Rev.1, paras. 27, 39, 45, 49, 56 and annex I; Second report, E/CN.4/Sub.2/1988/18/Rev.1, paras. 16 and 27; Third report, E/CN.4/Sub.2/1989/30/Rev.2, paras. 21 and 24; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Armenia: Since 15 January 1990, a state of emergency has been in force in the Gorissa region of the Armenian SSR.

Sources: Notification of the Government of the USSR to the United Nations Secretary-General dated 16 January 1990.

On 29 August 1990, a state of emergency was declared and a curfew introduced throughout the republic. Lifted on 16 August 1991.

On 16 December 1991, a state of emergency was declared and a curfew introduced in the Meghri region of Armenia for a period of three months.

On 19 June 1992, the state of emergency in the Meghri and Kapan regions of southern Armenia was reinstated for another three months.

Sources: Letter from the Government dated 10 July 1992, received in reply to the Special Rapporteur's request for information of 19 May 1992; information received from a non-governmental organization and published in the press.

In February 1993, a state of emergency was introduced in Armavir district of Armenia for a period of one month.

Sources: Information published in the press.

(Third report, E/CN.4/Sub.2/1989/30/Rev.2, para. 21; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, paras. 13 and 17).

Azerbaijan: State of emergency imposed in the Nagorno-Karabakh autonomous region and Agdam district of the Azerbaijan SSR as of 21 September 1988. Since 15 January 1990, a state of emergency has been in force in the territory of the Nagorno-Karabakh autonomous region, the regions of the Azerbaijan SSR adjacent thereto, and the border zone along the state frontier of the USSR in the territory of the Azerbaijan SSR.

On 20 January 1990, a state of emergency was declared in the city of Baku. Lifted in August 1991.

In June 1990, a state of emergency was introduced in Azerbaijan SSR along its border with Armenian SSR.

Sources: Notifications of the Government of the USSR to the United Nations Secretary-General dated 13 October 1988, 15 and 29 January 1990; information published in the press.

On 14 May 1992, a state of emergency was decreed for a period of two months and a curfew introduced in the city of Baku.

Sources: Information published in the press. In a letter dated 19 May 1992, addressed to the Government of the Azerbaijan Republic, the Special Rapporteur requested more detailed information regarding the emergency measures taken and their impact on human rights.

In March 1993, a state of emergency was declared in three districts of the Republic for a period of one month.

On 2 April 1993, a state of emergency was introduced in the whole territory of the Republic.

On 9 April 1993, a curfew was imposed in Baku and several other cities and districts.

In May 1993, the state of emergency was extended for another two months.

On 22 September 1993, the state of emergency was lifted throughout the country.

Sources: Information published in the press. The Special Rapporteur awaits more precise information to be submitted by the Government.

(Second report, E/CN.4/Sub.2/1988/18/Rev.1, annex I; Third report, E/CN.4/Sub.2/1989/30/Rev.2, paras. 21 and 24; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Bangladesh: Martial law proclaimed on 24 March 1982. Terminated on 10 November 1986.

State of emergency declared on 27 November 1990. Lifted on 6 December 1990.

Sources: Letters from the Government dated 22 July 1987 and 1 April 1993.

(First report, E/CN.4/Sub.2/1987/19/Rev.1, paras. 27, 39 and annex I; Second report, E/CN.4/Sub.2/1988/Rev.1, paras. 18 and 27; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Bolivia: State of emergency proclaimed on 18 September 1985. Terminated on 19 December 1985.

State of emergency proclaimed on 27 August 1986. Terminated on 27 November 1986.

State of emergency proclaimed on 15 November 1989. Terminated on 15 February 1990.

Sources: Notifications of the Government to the United Nations Secretary-General dated 27 September and 29 October 1985, 6 January, 28 August and 28 November 1986, 16 November and 8 December 1989 and 18 March 1990.

(First report, E/CN.4/Sub.2/1987/19/Rev.1, para. 27 and annex I; Second report, E/CN.4/Sub.2/1988/18/Rev.1, paras. 18 and 27; Third report, E/CN.4/Sub.2/1989/30/Rev.2, paras. 21 and 24; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Bosnia and Herzegovina:* Admitted to the United Nations on 22 May 1992, this newly emerged State found itself in a de facto state of emergency at the moment of its transition to independence. The Special Rapporteur awaits more precise information to be submitted by the Government.

(Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Brunei Darussalam:* State of emergency proclaimed on 12 December 1962. Still in force.

Sources: Letters from the Government, the latest dated 4 April 1991.

(First report, E/CN.4/Sub.2/1987/19/Rev.1, paras. 27, 39 and annex I: Second report, E/CN.4/Sub.2/1988/18/Rev.1, para. 18; Third report, E/CN.4/Sub.2/1989/30/Rev.2, para. 21; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Burkina Faso: Succession of emergency regimes and situations comparable to states of emergency since November 1980 and until June 1991.

Sources: Letters from the Government dated 30 April 1991 and 10 June 1993.

(Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Burundi:* State of emergency proclaimed and a curfew imposed on 21 October 1993. The curfew was lifted on 26 October 1993.

Sources: Information published in the press. In a letter dated 25 October 1993, addressed to the Government of Burundi, the Special Rapporteur requested more detailed information regarding the emergency measures taken and their impact on human rights.

Cameroon: State of emergency proclaimed on 18 April 1984. Lifted on 19 December 1991.

Sources: Information received from non-governmental organizations.

A state of emergency was in force from 27 October to 29 December 1992 in the North-West province of the country.

Source: Letter from the Government dated 29 December 1992.

(First report, E/CN.4/Sub.2/1987/19/Rev.1, para. 30 and annex I; Second report, E/CN.4/Sub.2/1988/18/Rev.1, para. 18; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Canada: State of emergency declared on 23 July 1989 throughout the province of Manitoba. Terminated on 4 August 1989.

Source: Letter from the Government dated 24 August 1989.

(Third report, E/CN.4/Sub.2/1989/30/Rev.2, para. 21; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, paras. 13 and 15).

Chad: No state of emergency has been formally proclaimed since 1 January 1985. However, a decree dated 7 April 1988 restricted for one week the realization of some human rights and fundamental freedoms.

Sources: Letters from the Government dated 20 July 1988 and 5 February 1991.

Curfew imposed in N'Djamena on 9 August 1993. On 22 October 1993, a curfew was introduced in the whole territory of the country. Lifted on 23 October 1993.

Sources: Information published in the press. The Special Rapporteur awaits more precise information to be submitted by the Government.

(Second report, E/CN.4/Sub.2/1988/18/Rev.1, paras. 18 and 25; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Chile: Proclamation of state of siege (from 7 November 1984 to 17 June 1985 and from 8 September 1986 to 5 January 1987), state of emergency (from 24 March 1984 to 27 August 1988) and state of danger of disturbance of internal peace (from 11 March 1981 to 27 August 1988).

Sources: Notifications of the Government to the United Nations Secretary-General dated, inter alia, 17 June 1985, 22 September 1986, 20 January 1987 and 31 August 1988; letters from the Government dated 10 August 1989, 21 February 1991 and 28 April 1993.

(First report, E/CN.4/Sub.2/1987/19/Rev.1, paras. 27, 41 and annex I; E/CN.4/Sub.2/1987/19/Rev.1/Add.1, annex I; Second report, E/CN.4/Sub.2/1988/18/Rev.1, paras. 18, 22, 27, 28 and 71; Third report, E/CN.4/Sub.2/1989/30/Rev.2, para. 24; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

China: Martial law imposed in Lhasa, Tibet, on 8 March 1989. Lifted on 1 May 1990.

Martial law imposed in Beijing on 20 May 1989. Lifted on 11 January 1990.

Sources: Letters from the Government dated 8 May and 15 August 1989. Letter dated 12 January 1990 from the Permanent Representative of China (reproduced in E/CN.4/1990/55); information received from non-governmental organizations and other information published in the press.

(Third report, E/CN.4/Sub.2/1989/30/Rev.2, para. 21; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Colombia:* State of siege proclaimed on 1 May 1984. Lifted on 7 July 1991.

State of internal disturbance was decreed from 10 to 16 July 1992 and from 8 November 1992 to 6 February 1993. On 5 February 1993, additional measures relating to the state of internal disturbance were decreed. The Special Rapporteur awaits further information to be submitted by the Government in order to be able to give more details regarding the emergency measures taken and their impact on human rights.

Sources: Notifications of the Government to the United Nations Secretary-General dated 7 May and 11 December 1984, 9 August 1991 and 16 July and 10 November 1992; letters from the Government dated 21 December 1987, 13 July 1988, 18 April 1989, 16 September 1991, 24 July and 11 November 1992, and 27 January and 27 April 1993.

(First report, E/CN.4/Sub.2/1987/19/Rev.1, paras. 27, 39 and annex I; Second report, E/CN.4/Sub.2/1988/18/Rev.1, paras. 18 and 44; Third report, E/CN.4/Sub.2/1989/30/Rev.2, para. 21; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Congo: State of emergency was in force from 16 July to 15 August 1993. Curfews were imposed in the cities of Brazzaville and Pointe-Noire at the beginning of July 1993.

Sources: Information published in the press. The Special Rapporteur awaits more precise information to be submitted by the Government.

Croatia:* Admitted to the United Nations on 22 May 1992, this newly emerged State found itself in a de facto state of emergency at the moment of its transition to independence. The Special Rapporteur awaits more precise information to be submitted by the Government.

(Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Djibouti: On 16 November 1991, a curfew was introduced in the district of Obock.

Sources: Information published in the press. The Special Rapporteur awaits more precise information to be submitted by the Government.

(Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Ecuador: Repeated proclamation of state of national emergency (14 to 17 March 1986, 28 to 30 October 1988, 31 May to 1 June 1988 and 27 September to 13 October 1989).

Sources: Letters from the Government (latest dated 12 January 1990); notifications of the Government to the United Nations Secretary-General dated 14 and 18 March 1986, 28 and 30 October 1987, 1 and 2 June 1988 and 2 August 1989.

(First report, E/CN.4/Sub.2/1987/19/Rev.1, paras. 27, 39 and annex I; Second report, E/CN.4/Sub.2/1988/18/Rev.1, paras. 18 and 28 and annex I; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Egypt:* State of emergency has been in force since 6 October 1981. It was extended for a three-year period from 1 May 1988 to 31 May 1991.

Sources: Letter from the Government dated 28 March 1991; information received from non-governmental organizations.

On 1 June 1991, martial law was extended for another three years.

Sources: Information received from non-governmental organizations. The Special Rapporteur awaits more precise information to be submitted by the Government.

(First report, E/CN.4/Sub.2/1987/19/Rev.1, para. 30 and annex I; Second report, E/CN.4/Sub.2/1988/18/Rev.1, para. 18; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

El Salvador: Suspension of certain constitutional guarantees since 6 March 1980. Successive extensions of martial law in 1984-1985. Termination of state of emergency on 12 January 1987. Further suspension of constitutional guarantees on 12 November 1989 for 30 days, subsequently extended until mid-April 1990.

Sources: Notifications of the Government to the United Nations Secretary-General dated 3 November 1983, 14 June 1984, 31 July 1985, 13 November 1989 and 5 January 1990; letters from the Government, latest dated 18 August 1989; information received from non-governmental organizations.

(First report, E/CN.4/Sub.2/1987/19/Rev.1, paras. 27, 41 and annex I; Second report, E/CN.4/Sub.2/1988/18/Rev.1, paras. 18 and 27; Third report, E/CN.4/Sub.2/1989/30/Rev.2, paras. 21 and 24 and annex I; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Ethiopia: The existence of a de facto state of emergency for quite some time has been reported. From May 1988, state of emergency in force in the regions of Tigray and Eritrea. Terminated in May 1991.

In May 1991, a curfew was introduced in Addis Ababa. Lifted on 31 May 1992.

Sources: Statement by the observer for Ethiopia at the forty-fourth session of the Sub-Commission, on 19 August 1992; information received from non-governmental organizations and published in the press.

(Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23, paras. 12 and 31; E/CN.4/Sub.2/1992/23/Rev.1, paras. 13, 39 and 40).

Fiji: State of public emergency proclaimed on 14 May 1987. Terminated on 5 December 1987.

Sources: Letters from the Government dated 6 November and 7 December 1989.

(First report, E/CN.4/Sub.2/1987/19/Rev.1, paras. 27, 39 and annex I; Second report, E/CN.4/Sub.2/1988/18/Rev.1, para. 18; Third report, E/CN.4/Sub.2/1989/30/Rev.2, para. 24; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

France: State of emergency proclaimed in New Caledonia and dependencies on 12 January 1985. Extended until 30 June 1985.

State of emergency proclaimed in Wallis and Futuna on 29 October 1986. Terminated on 30 October 1986.

Sources: Notification of the Government to the Secretary-General of the Council of Europe; letter from the Government dated 9 July 1987.

(First report, E/CN.4/Sub.2/1987/19/Rev.1, paras. 27, 39, 49 and annex I; Second report, E/CN.4/Sub.2/1988/18/Rev.1, paras. 18 and 27; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Gabon: State of siege introduced in the province of Port-Gentil. Curfew in force since May 1990. Terminated in August 1990.

Sources: Information received from a non-governmental organization and published in the press. The Special Rapporteur awaits more precise information to be submitted by the Government.

(Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Gambia: State of emergency proclaimed on 2 August 1981. Terminated on 8 February 1985.

Sources: Information received from non-governmental organizations.

(First report, E/CN.4/Sub.2/1987/19/Rev.1, annex I;
Second report, E/CN.4/Sub.2/1988/18/Rev.1, para. 27;
Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12;
Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Georgia:* On 18 July 1989, a "special regime of conduct for citizens" was introduced in Abkhaz autonomous republic.

On 12 December 1990, a state of emergency was introduced and subsequently extended in Tskhinvali and Dzhavski district (South Ossetia). Terminated on 26 November 1991.

In September 1991, a state of emergency was introduced in Tbilisi, the capital city of Georgia.

In January 1992, a state of emergency was declared and a curfew introduced in Kutaisi and several districts of western Georgia.

On 6 July 1993, martial law was imposed in Abkhazia.

In September 1993, a state of emergency was introduced in the whole territory of the Republic for a period of two months.

Sources: Information received from non-governmental organizations and published in the press. In two letters dated 19 May 1992 and 11 October 1993, the Special Rapporteur requested the Government of Georgia to provide information regarding the emergency measures taken and their impact on human rights.

(Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12;
Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Guatemala: On 25 May 1993, the suspension of certain constitutional guarantees was decreed, which was enforced for several days.

Sources: Letter from the Government dated 30 June 1993, received in reply to Special Rapporteur's request for information of 17 June 1993; 1/ information published in the press.

Guyana: State of emergency declared on 28 November 1991.

Sources: Letter from the Government dated 24 March 1993.

Haiti:* State of siege proclaimed on 29 January 1986. Terminated on 14 February 1986.

Sources: Letters from the Government dated 10 June 1987 and 16 March 1989.

State of siege introduced on 20 January 1990. Lifted on 30 January 1990.

Sources: Commission on Human Rights resolution 1990/56 of 7 March 1990; Reports on human rights situation in Haiti prepared by Mr. P. Texier, Independent Expert (E/CN.4/1990/44/Add.1, paras. 1 and 20; E/CN.4/1991/33, paras. 3, 11 and 125).

In September 1991, a curfew was introduced in Port-au-Prince. In a letter dated 22 October 1991 addressed to the Government of Haiti, the Special Rapporteur requested more detailed information regarding the emergency measures taken and their impact on human rights.

Not having received a reply from the authorities in the capital and possessing reliable information regarding the de facto state of emergency which exists in Haiti, the Special Rapporteur has undertaken a study on this issue (see chapter III of this report).

(First report, E/CN.4/Sub.2/1987/19/Rev.1, paras. 27, 39, 41 and annex I; Second report, E/CN.4/Sub.2/1988/18/Rev.1, para. 18; Third report, E/CN.4/Sub.2/1989/30/Rev.2, para. 24; (Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Honduras: State of emergency proclaimed on 8 April 1988. Terminated on 13 April 1988.

Sources: Information received from non-governmental organizations and published in the press. The Special Rapporteur awaits more precise information to be submitted by the Government.

(Second report, E/CN.4/Sub.2/1988/18/Rev.1, para. 18; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

India: The Special Rapporteur awaits more precise information from the Government concerning the measures taken in Kashmir, Punjab, areas in the north-east and in Andhra Pradesh, where, according to non-governmental sources, certain constitutional guarantees were said to have been suspended under special laws which in effect established a continuing state of emergency.

On 7 December 1992, an indefinite curfew was imposed in parts of Old Delhi. Curfews were also ordered in some other large cities.

Since 2 August 1993, a curfew is in force in the town of Srinagar, Kashmir.

Sources: Information published in the press.

(Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Iraq: The Special Rapporteur was awaiting information from the Government concerning the emergency measures taken during the armed conflict of 1991 and afterwards, as well as in connection with the events that have taken place in the Kurdish provinces. In a letter dated 4 March 1993, the Government of Iraq stated, inter alia, that:

"Despite the exceptional situation it has faced as a result of the aggression perpetrated against it by some 30 countries and in spite of the ensuing unrest, Iraq has neither proclaimed a state of emergency nor restricted the implementation of the articles of the Constitution or the laws, nor adopted measures which might undermine respect for human rights in general."

Sources: Letter from the Government dated 4 March 1993; reports on the situation of human rights in Iraq, prepared by Mr. Max van der Stoel, Special Rapporteur of the Commission on Human Rights (A/46/647, para. 60; E/CN.4/1992/31, paras. 22-39 and 151); Note verbale dated 3 July 1991 from the Permanent Mission of Iraq to the Centre for Human Rights (reproduced in E/CN.4/Sub.2/1991/51); letter from the Government dated 21 December 1987.

(Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Israel:* State of emergency in force since May 1948.

Sources: Notification of the Government received by the Secretary-General on 3 October 1991; letter from the Government dated 28 May 1991.

(First report, E/CN.4/Sub.2/1987/19/Rev.1/Add.2, chap. V; Second report, E/CN.4/Sub.2/1988/18/Rev.1, para. 18; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Territories occupied by Israel:* Emergency legislation in force.

Curfews imposed in the Gaza Strip and the West Bank since December 1992.

Sources: United Nations reports; information received from intergovernmental and non-governmental organizations and published in the press. The Special Rapporteur awaits more detailed information to be submitted by the Government of

Israel regarding the emergency measures taken and their impact on human rights.

(Third report, E/CN.4/Sub.2/1989/30/Rev.2, para. 21; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, paras. 13, 41 and 42).

Jordan: Martial law declared on 5 June 1967.

The Government's decision to repeal the martial law was endorsed by royal decree of 30 March 1992.

Sources: Letter from the Government dated 12 July 1993; reports of Jordan to the Human Rights Committee (CCPR/C/1/Add.55 and 56 and CCPR/C/46/Add.4; A/46/40, para. 578); information received from non-governmental organizations.

(Second report, E/CN.4/Sub.2/1988/18/Rev.1, para. 18; Third report, E/CN.4/Sub.2/1989/30/Rev.2, para. 21; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Kazakhstan: On 19 June 1989, a curfew was introduced in the town of Novy Uzen, Guriev district. Lifted on 24 July 1989.

Sources: Information published in the press. The Special Rapporteur awaits more precise information to be submitted by the Government.

(Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Kenya: According to a non-governmental source, a long-term state of emergency has been in effect in the north-eastern part of the country until the beginning of 1992. The Special Rapporteur awaits more precise information to be submitted by the Government, especially with regard to the emergency-type detention law currently in force.

(Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Kuwait: On 26 February 1991, martial law was declared for a three-month period. Subsequently extended until 26 June 1991.

Sources: Letter from the Government dated 14 September 1993; information received from a non-governmental organization and published in the press.

(Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Kyrgystan:* From 7 June to 21 November 1990, a state of emergency was in force in the capital, Frunze (now renamed Bishkek). On 4 and 7 June 1990, a state of emergency was decreed and a curfew imposed in Osh town and in Osh region. Still in force. Partially lifted on 14 September 1991. In January 1993, a special regime of entry and exit was introduced in Osh region.

Sources: Information received from a non-governmental organization and published in the press. The Special Rapporteur awaits more precise information to be submitted by the Government.

(Third report, E/CN.4/Sub.2/1989/30/Rev.2, paras. 21 and 24; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Lesotho: State of emergency declared on 25 February 1988. Reinstated on 2 May 1988. Lifted in early 1990.

Sources: Information received from a non-governmental organization. The Special Rapporteur awaits more precise information to be submitted by the Government.

(Second report, E/CN.4/Sub.2/1988/Rev.1, para. 18; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Liberia:* Suspension of certain constitutional guarantees since July 1990. Curfew enforced in the capital.

Sources: Information published in the press. The Special Rapporteur awaits more precise information to be submitted by the Government.

(Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Madagascar:* State of emergency declared on 23 July 1991 and subsequently extended. Curfew enforced in the capital.

Sources: Information published in the press. The Special Rapporteur awaits more precise information to be submitted by the Government.

(Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Malawi: Emergency legislation in force since 1965 which expressly provides for preventive detention.

Sources: Information received from a non-governmental organization. The Special Rapporteur awaits more precise information to be submitted by the Government.

(Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Malaysia: Four states of emergency proclaimed since independence were never revoked. The latest nationwide state of emergency was declared on 15 May 1969. Emergency legislation currently in force which expressly provides for preventive detention.

Sources: Information received from non-governmental organizations. The Special Rapporteur awaits more precise information to be submitted by the Government.

(First report, E/CN.4/Sub.2/1987/19/Rev.1, paras. 30, 41 and annex I; Second report, E/CN.4/Sub.2/1988/18/Rev.1, para. 18; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Mali:* State of emergency declared on 22 March 1991.

Sources: Information published in the press. The Special Rapporteur awaits more precise information to be submitted by the Government.

(Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Mauritania: A curfew was introduced in rural areas of the south. A de facto state of emergency has been reported to exist in the Senegal river valley. In October 1992, a curfew was enforced in the capital.

Sources: Information published in the press and received from non-governmental organizations. The Special Rapporteur awaits more precise information to be submitted by the Government.

(Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Moldova: From 26 October to 6 December 1990, a state of emergency was in force in several southern districts.

On 16 March 1992, a "special situation" regime was introduced on the left bank of Dnestr river. Lifted in September 1992. Curfew still in force in the city of Bendery.

On 28 March 1992, a state of emergency was decreed in the whole territory of the Republic. Lifted on 19 August 1992.

Sources: Letter from the Government dated 25 June 1992, received in reply to the Special Rapporteur's request for information of 19 May 1992; information received from non-governmental organizations and published in the press.

(Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Myanmar:* State of emergency proclaimed at Prome on 22 July 1988 and in the Yangon region on 3 August 1988. Terminated on 24 August 1988.

Martial law introduced on 18 September 1988 and is still in force. By end of May 1990, it was lifted in 102 townships.

The curfew imposed on 10 October 1990 was lifted on 10 September 1992.

On 26 September 1992, two martial law orders dated 17 and 18 July 1989 were revoked.

Sources: Letters from the Government dated 29 May and 24 August 1987, 16 May and 17 August 1989, 26 January, 21 March, 7 May and 14 June 1990, 4 March 1991, 18 August, 28 September, 7 and 19 October 1992 and 22 January 1993; Report on the situation of human rights in Myanmar, prepared by the Special Rapporteur of the Commission on Human Rights, E/CN.4/1993/37, para. 242 (d); information received from non-governmental organizations.

(Second report, E/CN.4/Sub.2/1988/18/Rev.1, paras. 18, 20 and 28; Third report, E/CN.4/Sub.2/1989/30/Rev.2, paras. 21 and 24; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Nicaragua: State of emergency was in force, with brief interruptions, from 15 March 1982 to 19 January 1988, and from 20 October to 15 November 1988.

Sources: Notifications of the Government to the Secretary-General of the United Nations, latest dated 4 February, 21 October and 16 November 1988.

(First report, E/CN.4/Sub.2/1987/19/Rev.1, para. 27 and annex I; E/CN.4/Sub.2/1987/19/Rev.1/Add.2, annex I; Second report, E/CN.4/Sub.2/1988/18/Rev.1, paras. 18 and 27 and Annex I; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Niger:* A state of emergency has been in force in the north of the country since 1992.

Sources: Information received from a non-governmental organization. The Special Rapporteur awaits more precise information to be submitted by the Government.

Nigeria: State of emergency proclaimed on 31 December 1983.

In October 1991, an indefinite night-time curfew was imposed in the State of Kano.

Sources: Information received from a non-governmental organization and published in the press. The Special Rapporteur awaits more precise information to be submitted by the Government.

(Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Pakistan: Martial law was in force from 5 July 1977 to 30 December 1985.

State of emergency proclaimed on 17 August 1988. Terminated on 1 December 1988.

Sources: Letters from the Government, latest dated 24 October and 5 December 1989.

(First report, E/CN.4/Sub.2/1987/19/Rev.1, paras. 22, 30, 41 and annex I; Second report, E/CN.4/Sub.2/1988/18/Rev.1, paras. 18 and 27; Third report, E/CN.4/Sub.2/1989/30/Rev.2, para. 21; Fourth report, doc. E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Panama: State of emergency proclaimed on 10 June 1987. Terminated on 29 June 1987.

Sources: Notifications of the Government to the Secretary-General of the United Nations dated 11 and 30 June 1987.

(First report, E/CN.4/Sub.2/1987/19/Rev.1, paras. 27, 39 and annex I; Second report, E/CN.4/Sub.2/1988/18/Rev.1, paras. 18 and 27; Third report, E/CN.4/Sub.2/1989/30/Rev.2, para. 21; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Papua New Guinea: State of emergency proclaimed on 17 June 1985. Terminated on 21 October 1985.

State of emergency declared on 26 June 1989. On 12 January 1990 extended for a further two months.

Sources: Information received from non-governmental organizations. The Special Rapporteur awaits more precise information to be submitted by the Government.

(First report, E/CN.4/Sub.2/1987/19/Rev.1, annex I; Second report, E/CN.4/Sub.2/1988/18/Rev.1, para. 18; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Paraguay: State of siege, which had been in force since 1954, was terminated on 9 April 1987.

Sources: Letters from the Government, latest dated 27 April 1987 (reproduced in doc. E/CN.4/Sub.2/1987/18).

(First report, E/CN.4/Sub.2/1987/19/Rev.1, paras. 27, 39, 40 and annex I; Second report, E/CN.4/Sub.2/1988/18/Rev.1, paras. 18 and 27; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Peru:* A state of emergency, which was declared for the first time in 1981, is currently in force in a considerable part of the territory; extension of states of emergency in certain provinces and departments and declaration of new states of emergency are periodically reported.

Sources: Notifications of the Government to the United Nations Secretary-General (latest dated 15 March and 20 June 1991); letters from the Government addressed to the Centre for Human Rights (latest dated 1 and 23 October, 4 and 13 November 1991, 15, 21, 23 and 27 January, 16, 18 and 27 March, 3 April and 25 August 1992).

On 5 April 1992, the President of the Republic has dissolved the Parliament and suspended, temporarily and partially, the Constitution throughout the territory of Peru.

Sources: Information published in the press and received from non-governmental organizations. The Special Rapporteur awaits more precise written information to be submitted by the Government regarding the recent emergency measures taken and their impact on human rights.

(First report, E/CN.4/Sub.2/1987/19/Rev.1, paras. 27, 39, 43 and annex I; E/CN.4/Sub.2/1987/19/Rev.1/Add.1, annex I; Second report, E/CN.4/Sub.2/1988/18/Rev.1, paras. 18 and 24 and Annex I; Third report, E/CN.4/Sub.2/1989/30/Rev.2, para. 21; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, paras. 13, 33 and 34).

Philippines: De facto states of emergency lasting only a few days were imposed in February 1986 during the revolution and at the time of the attempted coup d'état of 28 August 1987.

State of national emergency proclaimed on 6 December 1989. Ended on 7 June 1990.

Sources: Letters from the Government dated 10 December 1987, 2 April 1991 and 21 September 1992.

(First report, E/CN.4/Sub.2/1987/19/Rev.1, para. 22; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, paras. 13, 37 and 38).

Russian Federation:* On 19 April 1991, a state of emergency was introduced in Vladikavkaz (North Ossetia) for a period of one month and subsequently extended until 19 September, 19 December 1991, 19 April and 10 August 1992.

On 13 June 1991, a state of emergency was introduced in Makhachkala, the capital city of Dagestan, for a period of one month.

On 19 August 1991, a state of emergency was declared in some parts of the USSR for six months by the newly established State Committee for the Emergency Situations. On 22 August 1991, all decrees of this Committee were cancelled by the President of the USSR.

Sources: Statement made by the observer for the USSR at the forty-third session of the Sub-Commission, on 30 August 1991; information received from non-governmental organizations and published in the press.

From 11 to 28 September 1991, a state of emergency was in force in the Kazbek district of Dagestan.

Repeated introduction of states of emergency in the Chechen Republic. A curfew was imposed on 10 February 1992 in its capital, Grozny, for 30 days.

In May 1992, a state of emergency was introduced in Makhachkala and Kizilyourt cities of Dagestan.

Sources: Information published in the press. In a letter dated 19 May 1992, addressed to the Government of the Russian Federation, the Special Rapporteur requested more detailed information regarding the emergency measures taken in some parts of the country and their impact on human rights.

On 10 June 1992, a state of emergency was introduced in several districts of the North Ossetia; curfew imposed in Vladikavkaz.

Sources: Letter from the Government dated 21 July 1992.

On 27 September 1992, a state of emergency was proclaimed in Nalchik, the capital city of Kabardino-Balkaria, for a period of two months; its actual introduction was, however, suspended.

On 2 November 1992, a state of emergency was introduced in the North Ossetia and in the Ingush republic for a period of one month. Subsequently, the emergency regime in several districts and areas of Ingushetia and North Ossetia was repeatedly extended (last time: from 30 September to 30 November 1993).

Sources: Notification of the Government of the Russian Federation to the United Nations Secretary-General dated 3 November 1992; letters from the Government dated 4 November and 21 December 1992 and 28 June, 11 August and 25 October 1993; information received from non-governmental organizations and published in the press.

State of emergency was decreed from 3 to 10 October 1993 and a curfew introduced in the city of Moscow. Extended until 18 October 1993.

Sources: Letters from the Government dated 4 and 25 October 1993; information published in the press.

(Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12 and annex II; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, paras. 13, 16, 17, 22, 25-32).

Rwanda:* State of siege declared in October 1990.

Sources: Statement by the Minister of Justice of Rwanda of 17 January 1991; information received from non-governmental organizations and published in the press. The Special Rapporteur awaits more precise information to be submitted by the Government.

(Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Senegal: State of emergency was proclaimed from 29 February to 20 May 1988 and from 28 April to 19 May 1989.

Sources: Letters from the Government dated 20 September 1988, 15 January 1990 and 17 March 1993.

(Second report, E/CN.4/Sub.2/1988/18/Rev.1, paras. 18 and 28; Third report, E/CN.4/Sub.2/1989/30/Rev.2, para. 24; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Sierra Leone:* State of emergency declared on 2 November 1987. Renewed on 8 March 1988.

On 30 April 1992, a state of emergency was declared and a curfew imposed.

Sources: Information received from non-governmental organizations and published in the press. In a letter dated 19 May 1992, addressed to the Government of Sierra Leone, the Special Rapporteur requested more detailed information regarding the emergency measures taken and their impact on human rights.

(Second report, E/CN.4/Sub.2/1988/18/Rev.1, para.18; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, paras. 13 and 25).

Singapore: Emergency legislation currently in force which expressly provides for preventive detention.

Sources: Letter from the Government dated 18 August 1989; information received from non-governmental organizations.

(Second report, E/CN.4/Sub.2/1988/18/Rev.1, para. 18; Third report, E/CN.4/Sub.2/1989/30/Rev.2, para. 21; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Somalia:* Emergency regulations in force in areas affected by armed conflict.

Sources: Information received from non-governmental organizations. The Special Rapporteur awaits more precise information to be submitted by the Government.

(Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

South Africa: State of emergency in 36 magisterial districts was proclaimed on 21 July 1985. A country-wide state of emergency has existed since 12 June 1986. Successive proclamations or extensions of states of emergency as well as lifting of some emergency regulations took place in 1987, 1988, 1989 and 1990.

On 7 June 1990, the state of emergency was lifted in all areas of the country, except Natal. The lifting of the state

of emergency in Natal province was announced on 18 October 1990.

Sources: Letters from the Government dated 1 September 1988 and 6 July 1989 (cf. E/CN.4/Sub.2/1989/45); information submitted by the Special Committee against Apartheid; information received from non-governmental organizations.

On 28 October 1991, a state of emergency was imposed throughout the Ciskei.

Sources: Report of the Ad Hoc Working Group of Experts on southern Africa (E/CN.4/1992/8, paras. 167 and 168).

The Special Rapporteur awaits more precise information to be submitted by the Government.

(First report, E/CN.4/Sub.2/1987/19/Rev.1, para. 30 and annex I; E/CN.4/Sub.2/1987/19/Rev.1/Add.2, Chapter IV.B; Second report E/CN.4/Sub.2/1988/18/Rev.1, paras. 18 and 23; Third report, E/CN.4/Sub.2/1989/30/Rev.1, para. 18 and annex I; E/CN.4/Sub.2/1989/30/Rev.2, para. 21 and annex I; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Sri Lanka:* State of emergency proclaimed on 18 May 1983. Terminated on 11 January 1989.

State of emergency declared on 20 June 1989. Still in force.

Sources: Notifications of the Government to the Secretary-General of the United Nations dated 21 and 23 May 1984 and 13 January and 18 August 1989; letter from the Government dated 11 April 1991; Reports of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1992/18/Add.1, paras. 60-72 and 195; E/CN.4/1993/25/Add.1, paras. 16 and 146 (a)).

(First report, E/CN.4/Sub.2/1987/19/Rev.1, paras. 27, 41 and annex I; Second report, E/CN.4/Sub.2/1988/18/Rev.1, para. 18; Third report, E/CN.4/Sub.2/1989/30/Rev.2, para. 24; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Sudan:* States of emergency proclaimed on 6 April 1985, 25 July 1987 and 30 June 1989. Still in force.

Sources: Notification of the Government to the United Nations Secretary-General dated 13 February 1991; report of Sudan submitted to the Human Rights Committee, dated 15 February 1991 (CCPR/C/45/Add.3); information received from non-governmental organizations.

(First report, E/CN.4/Sub.2/1987/19/Rev.1, para. 30 and annex I; Second report, E/CN.4/Sub.2/1988/18/Rev.1, para. 18; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Suriname: State of emergency was in force from August 1980 to 25 February 1986. On 1 December 1986, state of emergency was proclaimed in the eastern part of the country. Terminated on 1 September 1989.

Sources: Letters from the Government dated 5 December 1986 (reproduced in A/41/958), 13 March and 24 June 1991; information received from non-governmental organizations.

(First report, E/CN.4/Sub.2/1987/19/Rev.1, paras. 27, 40 and annex I; Second report, E/CN.4/Sub.2/1988/18/Rev.1, paras. 18 and 22; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Syrian Arab Republic:* State of emergency proclaimed on 8 March 1963. Still in force.

Sources: Information received from non-governmental organizations. The Special Rapporteur awaits more precise information to be submitted by the Government.

(First report, E/CN.4/Sub.2/1987/19/Rev.1, para. 30 and annex I; Second report, E/CN.4/Sub.2/1988/18/Rev.1, para. 18; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Tajikistan:* In July 1989, a curfew was introduced in Isfara region.

On 12 February 1990, a state of emergency was declared in the capital, Dushanbe. Lifted on 29 June 1991.

On 23 September 1991, a state of emergency was introduced throughout the republic. Lifted on 30 September 1991.

Sources: Notification of the Government of the USSR to the United Nations Secretary-General dated 23 March 1990; information received from non-governmental organizations and published in the press.

State of emergency proclaimed and a curfew introduced on 5 May 1992. Lifted on 7 May 1992.

In September 1992, a state of emergency was introduced in several districts and towns of Kurgan-Tyube and Kuliab provinces.

On 23 October 1992, a state of emergency and a curfew were decreed in the capital, Dushanbe.

On 7 January 1993, a state of emergency was again declared and a curfew imposed in Dushanbe for a period of one month.

Sources: Information published in the press. In two letters dated 19 May and 28 October 1992, the Special Rapporteur requested the Government of Tajikistan to provide information regarding the emergency measures taken and their impact on human rights.

In March 1993, a state of emergency was declared and a curfew imposed in the whole territory of the country. Still in force.

Sources: Information published in the press.

(Third report, E/CN.4/Sub.2/1989/30/Rev.2, para. 21; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, paras. 13 and 31).

Thailand: Martial law introduced on 23 February 1991. Lifted on 3 May 1991.

On 18 May 1992, a state of emergency was introduced in Bangkok and surrounding provinces. Lifted on 26 May 1992.

Sources: Statement by the observer for Thailand at the forty-third session of the Sub-Commission, on 22 August 1991; letter from the Government dated 22 July 1992, received in reply to the Special Rapporteur's request for information of 19 May 1992; information published in the press.

(Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, paras. 13 and 25).

Togo: In April and in November 1991, curfews were introduced in Lomé, capital of the republic.

Sources: Information published in the press. The Special Rapporteur awaits more precise information to be submitted by the Government.

(Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Trinidad and Tobago: A state of emergency was proclaimed on 28 July 1990 for a period of 90 days and subsequently extended. Remained in force until 9 December 1990.

Sources: Notification of the Government to the Secretary-General of the United Nations dated 15 August 1990; letter from the Government dated 12 March 1993.

(Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Turkey:* Martial law, which was introduced on 26 December 1978 in 13 provinces, was proclaimed throughout the entire territory on 12 September 1980. As at 1 January 1985, it was in force in 34 provinces. By 19 July 1987 martial law was lifted throughout the country. In 1985-1987, in certain provinces, martial law was replaced by a state of emergency which is currently in force in 10 provinces in south-east Anatolia.

Sources: Letters from the Government dated 9 June 1987, 19 July 1988 and 15 February 1991; information received from non-governmental organizations.

(First report, E/CN.4/Sub.2/1987/19/Rev.1, paras. 27, 39, 43 and annex I; Second report, E/CN.4/Sub.2/1988/18/Rev.1, para. 18; Third report, E/CN.4/Sub.2/1989/30/Rev.2, para. 21; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Uganda: The existence of a de facto state of emergency has been reported, related particularly to the application of the Public Order and Security Act of 1967.

Sources: Information received from a non-governmental organization. The Special Rapporteur awaits more precise information to be submitted by the Government.

(Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

United Kingdom of Great Britain and Northern Ireland:* Since 1974, a public emergency exists relating to the affairs of Northern Ireland.

Sources: Notifications of the Government to the United Nations Secretary-General dated 23 December 1988 and 23 March 1989; communication from the Government received by the Secretary-General on 18 December 1989; reports to the Human Rights Committee (latest documents: CCPR/C/58/Add.6, paras. 57-60; CCPR/C/58/Add.12, para. 18).

(Second report, E/CN.4/Sub.2/1988/18/Rev.1, para. 18; Third report, E/CN.4/Sub.2/1989/30/Rev.2, para. 21; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

United States of America: States of emergency proclaimed and curfews imposed in Los Angeles, San Francisco, Las Vegas, Atlanta and some other places for short periods at the end of April-beginning of May 1992.

Sources: Letter from the Government dated 1 June 1992, received in reply to Special Rapporteur's request for information of 18 May 1992; information published in the press.

(Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, paras. 13, 15 and 25).

Uzbekistan: On 4 June 1989, a curfew was introduced in several townships of Fergana district.

Sources: Information received from a non-governmental organization and published in the press. In a letter dated 19 May 1992, addressed to the Government of Uzbekistan, the Special Rapporteur requested more detailed information regarding the emergency measures taken and their impact on human rights.

(Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Venezuela: Emergency measures and suspension of certain constitutional guarantees were decreed on 28 February 1989.

On 22 March 1989, all the constitutional safeguards were re-established.

Sources: Notifications of the Government to the United Nations Secretary-General dated 17 and 31 March 1989; letters from the Government dated 3 and 18 April 1989 and 7 December 1990.

On 4 February 1992, certain constitutional guarantees were suspended. On 13 February 1992, a partial restoration of previously suspended guarantees was decreed. By a decree dated 9 April 1992, the President of the Republic has restored all constitutional guarantees.

Sources: Notifications of the Government to the United Nations Secretary-General dated 4 and 21 February and 24 April 1992; letter from the Government dated 11 February 1992.

On 27 November 1992, suspension of certain constitutional guarantees was decreed. By decrees dated 1 and 22 December 1992 and 16 January 1993, all constitutional guarantees were restored.

From 16 to 25 January 1993, certain constitutional guarantees were again suspended in some parts of the national territory.

Sources: Letter from the Government dated 1 April 1993; information received from non-governmental organizations.

(Third report, E/CN.4/Sub.2/1989/30/Rev.2, paras. 21 and 24; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, paras. 13 and 15).

Yugoslavia:* On 28 March 1989, special measures involving suspension of freedoms of assembly and movement were introduced in the province of Kosovo. On 18 April 1990, all the emergency measures in the territory of the province were lifted.

Sources: Notifications of the Government to the United Nations Secretary-General dated 14 April 1989, 29 May 1989, 19 March 1990 and 24 April 1990.

On 18 October 1991, the "existence of an immediate threat of war" was established by the decision of the Presidency of the SFRY throughout the territory of the country.

Sources: Letters from the Government dated 18 and 21 February 1992.

Except for Slovenia, the other newly emerged States of Croatia and Bosnia-Herzegovina, which made up the former Yugoslavia, found themselves in a de facto state of emergency at the moment of their transition to independence.

(Third report, E/CN.4/Sub.2/1989/30/Rev.2, paras. 21 and 24; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Zaire: In a letter dated 28 October 1991, addressed to the Government of Zaire, the Special Rapporteur requested more detailed information regarding the emergency measures taken in connection with September riots in the country, and their impact on human rights.

A non-governmental source later advised the Special Rapporteur that those measures did not constitute a state of emergency and were of very short duration. The Special Rapporteur therefore awaits more precise information to be submitted by the Government of Zaire.

(Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

Zambia:* State of emergency introduced on 27 July 1964. Lifted in 1991.

State of emergency declared on 4 March 1993.

Sources: Information received from a non-governmental organization and published in the press. The Special Rapporteur awaits more precise information to be submitted by the Government of Zambia in reply to his letter dated 17 June 1993.

Zimbabwe: State of emergency, which had been in force since November 1965, was lifted on 25 July 1990.

Sources: Letters from the Government dated 23 March and 12 July 1988; information received from non-governmental organizations.

(First report, E/CN.4/Sub.2/1987/19/Rev.1, para. 30 and Annex I; Second report, E/CN.4/Sub.2/1988/18/Rev.1, paras. 18, 26 and 35 and Annex I; Fourth report, E/CN.4/Sub.2/1991/28/Rev.1, para. 12; Fifth report, E/CN.4/Sub.2/1992/23/Rev.1, para. 13).

17. The Special Rapporteur is aware of the possibility that the existence of a state of emergency in other countries might not have come to his knowledge and trusts that the cooperation of States and intergovernmental and non-governmental organizations in the procedure being applied will soon enable him to give a full account of the situation worldwide.

II. OBSERVATIONS AND COMMENTS

18. In the communications which the Special Rapporteur received from Governments and international organizations in reply to his latest request for information (see Annex I), as well as in various statements made during the last sessions of the Commission on Human Rights and the Sub-Commission, a number of comments and proposals were put forward with regard to the mandate of the Special Rapporteur and the working method which he is following. In the view of the Special Rapporteur, some of those proposals deserve being brought to the attention of the Commission and the Sub-Commission, which may wish to take them into consideration when formulating further directives relating to the present mandate.

19. In this connection, the Special Rapporteur would like to refer in particular to the following proposals:

(a) In future reports, information on countries that have proclaimed or lifted a state of emergency should be restricted to developments over the last two or three years. The aim is to make it possible easily to visualize whether or not there has been progress or regression in this sphere from one year to the next;

(b) To endeavour to examine in one part of the study which human rights are most frequently affected by the proclamation of states of emergency;

(c) Probably, at a later stage, and in so far as the scant resources available to the Special Rapporteur permit, to attempt to obtain information not only on those rights that may be affected by the proclamation of a state of emergency, but above all on those which are actually affected; for example, the number of persons detained or expelled from the country, sentenced to severer sentences than those in force in normal circumstances or offences that only exist under the state of emergency; nature of the legislation introduced in exercise of extraordinary powers, etc;

(d) In subsequent reports, the Special Rapporteur should inform the Sub-Commission about the existing provisions in national legislation regarding the competent bodies and necessary procedures for proclamation of states of emergency;

(e) The Special Rapporteur should monitor closely, and report on, the implementation of Commission on Human Rights resolution 1992/35 which called upon States to establish habeas corpus or similar procedure and to maintain the right to such a procedure at all times and under all circumstances, including during states of emergency;

(f) The Special Rapporteur should develop further the emergency communication system and continue to provide both Governments and non-governmental organizations with the opportunity to comment on the information supplied by the other, and should include full details in his annual reports;

(g) Future reports on states of emergency should not only provide a list of those countries in which a state of emergency has been declared but also analyse what has happened in respect of human rights in those countries, whether they have been restored and to what extent;

(h) Finally, it was proposed that a United Nations mechanism should be established within the framework of the Centre for Human Rights at Geneva and vested with the supervisory authority needed to monitor the legitimacy of the declaration of a state of emergency in the countries concerned.

20. The Special Rapporteur has taken note with interest and appreciation of a new practice in the work of the Human Rights Committee which, at its fortieth session held in 1990, after an exchange of views among members concerning the Committee's methods of work in dealing with states of emergency declared under article 4, paragraph 3, of the Covenant, requested the secretariat to provide at each of its sessions an updated list showing any state of emergency of which the Secretary-General might have been notified since the committee's previous session (A/46/40, para. 15). The Special Rapporteur has been informed that this practice has been followed at all subsequent sessions of the Human Rights Committee.

21. The Special Rapporteur has also taken note of the fact that at its forty-seventh session held in March-April 1993, the Human Rights Committee adopted an amendment to rule 66 of its rules of procedure by which a new paragraph was added providing that, in the case of an exceptional situation and when the Committee is not in session, a request for submission of a report under article 40, paragraph 1 (b) of the Covenant may be made through the chairman, acting in consultation with the members of the Committee.

III. DE FACTO STATES OF EMERGENCY

Haiti

22. Both the Commission on Human Rights and the Sub-Commission have repeatedly requested the Special Rapporteur to examine in depth those situations of crisis in which Governments have adopted exceptional measures, without a state of emergency being officially proclaimed. Pursuant to these instructions, the study should focus in particular on the negative impact of such practices on human rights and fundamental freedoms as a whole.

23. In previous reports the Special Rapporteur has already had the opportunity to draw the attention of both bodies to the harmful impact of such abnormal situations, both as regards the institutional order of States, and the exercise of public and private freedoms, and in particular the rule of law. Such departures from normality or irregularities are alarmingly frequent and are the result of failure to comply with an essential requirement for states of emergency, i.e. the official proclamation by an announcement whose purpose is to inform the population of the reasons for it and which rights or guarantees are suspended. Moreover, this formal procedure operates as an authentic institutional control mechanism to the extent that all national legislations specify which organ is empowered to introduce the measure.

24. In practice, de facto states of emergency may arise out of two distinct irregularities, although both of them produce the same result: i.e. (a) as a result of the adoption of exceptional measures without a state of emergency having previously been proclaimed, or (b) by the maintenance of exceptional measures after the state of emergency has been officially lifted. In both cases the legal consequences are similar, as they entail a departure from the principle of legality as a result of failure to comply with one of the principal requirements: the proclamation.

25. As will be remembered, in the case of Cyprus the European Commission of Human Rights drew attention to the need to comply with this formal requirement, as a prerequisite for exercising the right to derogation authorized by the European Convention on Human Rights in the case of a state of emergency. Similarly, the Human Rights Committee, which is responsible for supervising the implementation of the International Covenant on Civil and Political Rights, has repeatedly drawn attention to the legality of this principle, for example, when it considered the initial reports submitted by Colombia and Suriname. In the latter case, in response to the pressing questions by the experts concerning the clear failure to comply with this requirement, the representative of the Government of Suriname was obliged to recognize that during the events that took place in 1980, when there was an attempted coup d'état, the whole country was under a de facto state of emergency, as exceptional measures had been adopted without the state of siege having been officially proclaimed.

26. Nevertheless, beyond strictly legal and institutional considerations, what should be emphasized in this connection is the process of deterioration that inevitably results from such departures from normality or irregularities. The situation in Haiti is a clear illustration of this, which is why the Special Rapporteur has taken this opportunity to examine in detail the

manifold violations of human rights in Haiti. The purpose of this study is solely to respond to the request made by the Commission and the Sub-Commission and to illustrate, by this example, the serious damage caused by so-called "de facto states of emergency".

A. Legal frame of reference

27. Based on the model of the French and other Latin American Constitutions, Haiti's Constitution of 28 March 1987 affords adequate protection for human rights and fundamental freedoms. Articles 278 and 278.1-3 regulate the state of siege. Article 278 stipulates that:

> "No place, or part of the territory may be declared under a state of siege except in case of civil war or invasion by a foreign force".

Article 278-1 stipulates that:

> "the measure by the President of the Republic proclaiming the state of siege must be countersigned by the Prime Minister, on behalf of all the Ministers, and must also entail the immediate convening of the National Assembly to decide as to the opportuneness of the measure".

Article 278-2 requires that:

> "The National Assembly shall determine together with the Executive which constitutional guarantees may be suspended in those parts of the territory under a state of siege."

Finally, article 278-3 stipulates that:

> "The state of siege shall no longer apply if it is not renewed every fortnight after it has been brought into force by a vote of the National Assembly."

28. In addition, Haiti has ratified the International Covenant on Civil and Political Rights and the American Convention on Human Rights, and is thus bound by their articles 4 and 27 respectively which regulate states of emergency and establish those principles and guarantees which all States parties must observe (see para. 47 below). Similarly, the Constitution itself stipulates that duly ratified international treaties automatically become part of domestic law and take precedence over national law. Moreover, according to article 19 of the Constitution, the Universal Declaration of Human Rights is an integral part of the Constitution.

B. Consistent pattern of gross violations of human rights

29. Following the coup d'état on 29 September 1991, by which the armed forces of Haiti overthrew the country's constitutional President, Father Jean-Bertrand Aristide, countless restrictions and limitations of human rights were introduced by the de facto authorities, without a state of siege having been officially proclaimed.

30. As the Special Rapporteur of the Commission on Human Rights, Mr. Marco Tulio Bruni Celli, points out in his most recent report (E/CN.4/1993/47), since the coup d'état of September 1991, repression and violence in Haiti have increased. Harassment, intimidation, attacks, arbitrary arrests, summary executions and torture by members of the military and civilians working with them are said to be daily occurrences and to have increased in mid-May 1992 in response to popular protests.

31. Details will be provided below of these violations on the basis, inter alia, of the report of the Special Rapporteur of the Commission, the most recent report of the Inter-American Commission on Human Rights (OEA/Ser/L/V/II.83. Doc. 18) and the observations made to the military authorities by the members of the joint Organization of American States/United Nations international civilian mission in Haiti.

1. Violation of the right to life, liberty and security of person

32. According to information received by the Special Rapporteur of the Commission on Human Rights since February 1992, summary executions have continued to occur in Haiti rising sharply in mid-May following popular protests which brought increased repression, particularly of students and residents of the poor districts. According to reliable reports, the number of those killed since the September 1991 coup d'état by the Haitian armed forces, including the army, police and their civilian supporters, is believed to be at least 1,000 and is probably significantly higher. One source has documented 1,021 cases of extrajudicial executions from October 1991 to August 1992 and estimates that the number of cases could be as high as 3,000.

2. Violation of the right to protection against arbitrary arrest and detention

33. Human rights groups operating in Haiti recorded 5,096 cases of unlawful detentions between October 1991 and November 1992: 34 per cent of them took place in Port-au-Prince, 14.3 per cent in the Artibonite department, 13.35 per cent in the Nord department, 12.79 per cent in the Plateau Central department and 3.02 per cent in the Sud department. The remainder took place in the other regions of the country.

34. As far as violations of the right to freedom are concerned, the Inter-American Commission on Human Rights has continued to receive numerous complaints from people who have been arbitrarily detained by members of the security forces. In most cases, the victims are detained without a judicial warrant and outside the times fixed by the law. They remain in prison for several days and occasionally even for months without being brought before a court, in violation of the 48-hour time limit set by the Constitution. The victims are occasionally released without any charges having been made against them.

3. Violation of the right to protection against torture and other cruel, inhuman or degrading treatment or punishment

35. Torture and ill-treatment by the military, section chiefs and the civilians working with them are widespread in Haiti. Detainees are said to be routinely beaten up on arrest and beatings are reportedly a daily occurrence in detention centres. Beatings are also said to take place when the security forces intervene during demonstrations or undertake incursions into poor neighbourhoods. Beatings on both sides of the head simultaneously and severe beatings on the back and buttocks are said to be common methods of ill-treatment. Those known or suspected of being supporters of President Aristide as well as human rights activists are at particular risk. Many of those subjected to torture are said to have been denied medical care and some persons are alleged to have died as a result of the ill-treatment inflicted upon them.

36. In many of the cases of arbitrary arrest referred to by the Special Rapporteur of the Commission, the persons concerned are said to have been subjected to ill-treatment or torture. According to one organization, as of 1 December 1992, 2,000 cases of people wounded by gunfire or victims of beatings had been documented; this does not include those who were beaten at the time of arrest and then tortured during detention.

4. Violation of the right to freedom of opinion and expression

37. Again, according to the information received by the Special Rapporteur of the Commission in Haiti, the right to freedom of opinion and expression has been severely curtailed since September 1991. Print and broadcast journalists, as well as members and leaders of popular movements, are reported to have been subjected to threats and intimidation and in some cases given orders prohibiting them from expressing themselves freely. According to another source, there is currently the most severe repression of freedom of expression in Haiti since the Duvalier era. At all levels of society communication of information and the expression of opinions has become a potentially life-threatening activity, endangering both the speaker as well as any listeners. According to reliable information, between September 1991 and September 1992, four journalists are said to have been killed, one disappeared and presumed dead and at least 30 journalists arrested. Nine radio stations are reported to have been attacked and vandalized and six are said to remain closed. Some 24 journalists are said to have been forced to flee the country and many more have gone into hiding.

38. The Inter-American Commission on Human Rights continues to receive complaints concerning alleged restrictions on the exercise of this right and repression against journalists and radio stations, several of which have stopped broadcasting. A number of radio stations were closed by the military and others preferred to cease broadcasting out of fear for the safety of their personnel. In rural areas, the section chiefs have arbitrarily arrested anyone who attempted to disseminate news about the repression prevailing in Haiti. All those who have continued working in hiding do so at the risk of their lives.

5. Violation of the right to freedom of assembly and association

39. According to the Inter-American Commission and other sources, the military have prohibited meetings both in urban and rural areas. Peaceful meetings of popular organizations, of peasants, of students and of members of religious orders have been violently broken up and those attending them arrested and beaten. The organizations' premises have been burnt and their property pillaged. Many of their members have fled to other towns and some of them have left the country.

40. In the north-east, groups of peasants have been compelled to cease meeting. The military have declared that "peasants have no role in politics so there is no reason for them to meet". At the end of 1991, the military authorities informed the inhabitants of local communities that they had to give three days' notice of any meeting to the nearest barracks and that furthermore a soldier had to be present at any assembly. Pursuant to this policy, on 28 and 29 April 1992, the soldiers in the locality of Desarmes in Artibonite department placed a large number of residents under house arrest because the zone's commander had not been given prior notice of a meeting. In another community, the army killed three members of the peasants' agricultural cooperative and destroyed their meeting room.

41. More recently, the joint OAS/UN international civilian mission deployed in Haiti, whose mandate is to monitor respect for human rights, informed the Commander-in-Chief of the Haitian armed forces of its deep concern about the numerous and serious violations brought to its notice and which have required its intervention in various parts of the country. The most serious human rights violations observed by the mission involve arbitrary detentions, systematic beating and torture inflicted by members of the armed forces and persons linked to them. The mission has also received information about deaths from torture during detention. These violations of physical integrity and security are mostly intended to restrict, hamper or prohibit freedom of opinion and expression, peaceful assembly and association, as is apparent from the cases described by the mission and which were extremely serious and significant, but unfortunately only give an incomplete idea of the multiplicity and extent of violations.

6. Violation of economic, social and cultural rights

42. Haiti is the poorest country in Latin America and one of the 20 poorest in the world. The violent breakdown of institutional order and the repression that accompanied it have not only entailed the straightforward suppression of most civil and political rights, but have also brought in their wake a sharp deterioration in the situation of already precarious economic, social and cultural rights.

43. The Special Rapporteur of the Commission has ascertained that the military is said to have intervened systematically against small-scale self-help organizations promoting agricultural projects, literacy or neighbourhood improvement. Lay and religious workers, students, members and leaders grass-roots organizations, foreign workers and anyone suspected of involvement with pro-Aristide groups are said to have been subjected to repression and many of them have reportedly been forced into hiding or have

fled the country, in fear for their safety. One foreign aid worker is alleged to have been arrested just for holding a staff meeting, and others for meeting members of agricultural cooperatives.

44. At the end of 1992 the Special Rapporteur received reports about the violent persecution of street children. According to the information, the number of street children in Haitian city streets is increasing as a result of the repression against their families, together with an increase in poverty and internal displacement. It is said that the shelters set up by civic associations for children are systematically attacked by the military.

45. According to information gathered by the Inter-American Commission on Human Rights, in the capital and in the provinces alike, the population is exposed to the corruption engaged in by the de facto authorities and from the extortion practised by the military against civilians, who are compelled under threat to pay them large amounts of money to avoid being arrested, to escape ill-treatment or simply to improve their conditions in the detention centres, and sometimes even to obtain their release. Corruption in the administration of justice has prevented the victims of these abuses from asserting their judicial guarantees.

46. Moreover, the climate of fear and insecurity in Haiti has compelled a large part of the population to move and to seek refuge in the provinces, thus having to give up their homes and to hide permanently. In its previous report, the Inter-American Commission on Human Rights indicated that some 300,000 people had been affected by this large-scale displacement. In other cases, many Haitians have been forced to flee the country on unseaworthy vessels to apply for asylum in the United States of America.

IV. FUNCTIONS OF PARLIAMENT DURING A STATE OF EMERGENCY

A. Introductory report submitted by Mr. Leandro Despouy to the Inter-Parliamentary Symposium "Parliament: Guardian of Human Rights", Budapest, 19-22 May 1993

47. All legal systems provide for special measures to cope with emergency situations. However, any derogation or suspension of rights which is necessary to cope with a crisis can only be of a temporary nature and can only have as its purpose the restoration of normality and the preservation of the most fundamental rights. It is for this reason that most legal systems and the principal international human rights instruments establish a series of conditions and requirements setting limits to the power of the authorities and serving as a guarantee for the preservation of human rights during a crisis situation.

48. The international principles which have emerged with regard to states of emergency may be summarized as follows:

(i) The principle of legality, which concerns the accord that should exist between the declaration of the state of emergency and the emergency measures adopted, on the one hand, and between the declaration of the state of emergency and the internal legislation of the country, on the other; this principle further seeks to ensure that internal law conforms with international law;

(ii) The principle of proclamation, which refers to the need for the state of emergency to be announced publicly;

(iii) The principle of communication, which refers to the obligation duly to inform the other States parties to the relevant treaty, through the latter's depositaries, as well as the Special Rapporteur of the United Nations on the human rights situation during states of emergency;

(iv) The principle of temporality, which refers to the exceptional nature of the declaration of a state of emergency and its necessarily limited duration in time; 2/

(v) The principle of exceptional threat, which requires the crisis to present a real, current or at least imminent danger to the community; 2/

(vi) The principle of proportionality, which refers to the need for the gravity of the crisis to be proportional to the measures taken to counter it;

(vii) The principle of intangibility, which concerns specific fundamental rights from which there can be no derogation.

49. It is particularly important that Parliament, which is the guardian of human rights, should not be the first victim of the declaration of a state of emergency, either as a result of a straightforward dissolution or suspension,

or a drastic reduction in its legislative powers and its powers to oversee the Executive. It is also essential for Parliament to be able to play its role both as regards the declaration and the lifting of the state of emergency, and as regards the determination of those rights that may be derogated from and the safeguards which must accompany such derogation. It is also essential for the privileges and immunities to be maintained which are necessary for the parliamentarian to exercise his/her mandate.

50. Indeed, at no less than three levels, Parliament is clearly one of the essential mechanisms for the preservation of human rights during a state of emergency. The first level is related to the legal nature of the state of emergency as an ordinary institution under the rule of law. The second level derives from the need for Parliament to be properly involved, both with regard to the proclamation and lifting of the state of emergency and during the period in which it is in force. The third level concerns the preservation of the safeguards relating to the status of parliamentarians (immunities, etc.) so that the representatives of the people can fulfil the functions with which they have been entrusted despite the existence of a crisis or, more particularly, during such a situation.

1. Legal nature of the state of emergency

51. To foresee even the unforeseeable is one of the functions of the legislator whose mission is to establish in advance the provisions which must govern the action of the authorities in a crisis situation as well as the limits upon such action.

52. Contrary to a belief which is too widely held, states of emergency are not tantamount to the rule of the arbitrary. They are an institution of the rule of law involving a series of measures designed to come into force only when a crisis situation arises and which remain in reserve during ordinary periods. Therefore, whatever the political dimension which may be attributed to a given state of emergency, its legal nature is such that the acts which constitute it (proclamation, ratification, etc.) and the measures which are adopted when it is in force (suspension or restriction of certain rights, etc.) must lie within the framework of the principles governing the rule of law and are thus subject to controls. The precedents and the jurisprudence of the various international bodies for the protection of human rights are unanimous in this respect.

2. Functioning of the Parliament

53. It is recognized that the principle of the independence and balance of the various powers in a State (and therefore the existence of internal control mechanisms) is part and parcel of the rule of law. That is why most legal systems throughout the world provide for the Parliament to be actively involved either in the proclamation of a state of emergency or in its ratification once the Executive has decreed it.

54. The objective is to prevent the Executive from having sole competence for the adoption of a measure of such gravity - which generally results in the suspension or restriction of certain fundamental rights - without any involvement of Parliament, which, in most States, is the body most directly

representative of the people or peoples forming the nation. Furthermore, the lack of intervention by the Parliament in certain of the above stages has on many occasions given rise to the abusive and arbitrary use of a state of emergency, with the effect that, instead of being proclaimed to cope with a crisis which endangers the life of the nation, it becomes an instrument for curbing the opposition.

55. The same criterion applies to the lifting of a state of emergency, in order to prevent it being extended longer than is strictly necessary. It is essential for parliamentarians to be particularly attentive in ensuring that the measures adopted during a crisis are not maintained after the state of emergency has been officially lifted as this may lead, in a somewhat indirect and perverse manner, to a de facto state of emergency.

56. It is vital that the measures adopted during a period of emergency are in conformity both with national law and the treaties ratified by the State as well as with the international principles referred to in paragraph 47.

57. In this respect, Parliament has a decisive role to play, not only by reason of the measures which it adopts or approves during a crisis, but also and above all prior to the crisis and through the measures which it establishes to serve as a legal framework enabling the various powers in the State to cope with a crisis.

58. One of the items on the agenda of the Symposium concerns the "implementation at the national level of international human rights instruments", and I would therefore particularly like to draw the attention of the participants to the vital importance, especially in the case of states of emergency, of strict concordance between national and international provisions, particularly since practice shows that it is in situations of emergency that the most serious violations of human rights occur.

59. As the Special Rapporteur of the United Nations on the human rights situation during states of emergency, on several occasions I have believed it appropriate to point out to Governments the existence of divergences of varying importance between national and international law, and I have also had occasion to note the harmful impact of such divergences on the effective observance of all human rights and fundamental freedoms in situations of emergency.

60. Through the advisory services of the United Nations Centre for Human Rights, certain Governments have sometimes sought my cooperation for the reform of their national law in this respect. The results obtained have been encouraging and the Inter-Parliamentary Union, within which most of the Parliaments of the world are represented, could play an intermediary role in this respect and act as a forum for meetings and exchanges, as well as play an advisory role through its programme of technical assistance to Parliaments.

3. Rank of legal provisions relating to states of emergency

61. Experience shows that it is highly desirable for the provisions governing states of emergency to have the rank of constitutional measures. In this way, they are safeguarded against any circumstantial legislative reforms which, in

most cases, arise more out of the passions engendered by the crisis than the real necessities stemming from the emergency.

62. It is clearly of the highest importance that provisions should exist, also with the rank of constitutional measures, prohibiting the dissolution and even the suspension of Parliament during a state of emergency. Most legislations explicitly provide for this, although others set it out in an indirect manner by laying down that "no authority may assume the legislative functions on the grounds of the existence of a state of emergency". The objective of such provisions is to prevent the Executive from usurping the role of the Legislative in exceptional circumstances.

63. By way of illustration, it may be recalled that the Inter-American Court of Human Rights has stated, in advisory opinion No. OC-6/86 of 9 May 1986, that the restrictions of rights authorized under the American Convention on Human Rights can only be adopted under the terms of "a law that has been passed by democratically elected and constitutionally legitimate bodies and is tied to the general welfare", i.e. in accordance with a norm formulated or approved by Parliament.

4. Preservation of parliamentary safeguards, privileges and immunities

64. The Inter-Parliamentary Council and its Committee on the Human Rights of Parliamentarians have pointed out on several occasions that "protection of the rights of parliamentarians is the necessary prerequisite to enable them to protect and promote human rights and fundamental freedoms in their respective countries", and furthermore that "the representative nature of a Parliament closely depends on the respect of the rights of the members of that Parliament".

65. If it is recognized that one of the most important characteristics of parliamentarians is their role as guardians of human rights, it is clear that this role is not only exercised in ordinary situations, but is even more crucial in crisis periods, which are the times when, in general, the most serious excesses and lapses occur.

66. However, the prohibition of the dissolution or suspension of Parliament during a state of emergency, as well as the preservation in such circumstances of the immunities and privileges of the legislative body, act as safeguards for the full exercise of the parliamentary mandate during crises and as precise limits on the powers which are attributed in exceptional circumstances to the Executive (which is only too likely to interpret them in an extensive manner).

67. In this respect, the experience of the Committee on the Human Rights of Parliamentarians of the Inter-Parliamentary Union is illuminating. A large proportion of the complaints with which it has been seized between 1977 and 1993 have concerned parliamentarians in countries undergoing a state of emergency which, in many cases, has been perpetuated by its systematic renewal for several months or even several years. In such circumstances, the Union has had occasion to note serious violations both with respect to the parliamentary institution and the rights of parliamentarians. One of the most frequent and serious violations is the abuse of the power, which is generally

accorded to the Executive in exceptional circumstances, of detaining persons without charging them or bringing them to trial.

B. Summary of the debates by the Chair of the Interparliamentary Symposium: "Parliament: Guardian of Human Rights"

1. Parliament in states of emergency

68. The Symposium stressed that states of emergency, which are provided for in most juridical systems and the major international human rights instruments, must not open the door to arbitrary measures.

69. It made reference to a series of principles making it possible to avert serious human rights violations of the kinds recorded in several of the 80 countries which proclaimed a state of emergency at some time between 1985 and 1992.

70. It stressed the importance of Parliament being able to perform its role as regards both the proclamation and lifting of a state of emergency, as regards the identification of rights which may be derogated from during the state of emergency and as regards the monitoring of the activities of authorities invested with exceptional powers, notably the security forces and police.

71. Many participants pointed out that states of emergency must be defined in provisions having the status of constitutional norms so that this legal institution is sheltered from opportunist legislative reforms, and they stressed the importance of provisions prohibiting the dissolution or even the suspension of Parliament while such states are in force. Parliament is in fact too often the first victim of the declaration of a state of emergency, either by being purely and simply abolished or by having its legislative powers drastically reduced.

72. While some participants underlined that the devolution of certain powers by Parliament to the Executive was part and parcel of a state of emergency, several others maintained that Parliament should retain its full legislative powers. The same speakers stressed the importance of parliamentarians continuing to enjoy their parliamentary immunities during states of emergency, considering that it is in such particular situations that the representatives of the people must, more than ever, be in a position to defend the rights of their electors and be particularly vigilant in that respect.

73. The participants stressed that a state of emergency should be declared strictly to meet an exceptionally critical situation, such as is foreseen in the national provisions for the emergency. Some pointed out that Parliament and its members must always be very attentive to the early-warning signs which could lead to the declaration of a state of emergency. In this context, there were numerous references to the need to attack the root causes of structural imbalances, and especially poverty, which too often pave the way for authoritarian regimes. Reference was also made to transparency of political activities as a means of averting crises, as well as to the importance of a proper information exchange between politicians and the security forces.

74. The Symposium pointed out that a state of emergency must be of strictly limited duration, as the Inter-Parliamentary Council has repeatedly stressed. Some speakers referred to the importance of Parliament making absolutely certain that the exceptional powers granted to certain authorities under a state of emergency duly stopped being used as from the date when the emergency was lifted.

75. Several speakers highlighted the need for the entire population to be properly notified of the state of emergency and stressed that informing the international community about such a proclamation was a strong guarantee for that population; it is in fact an obligation for States parties to certain treaties to give such notification. A representative from Latin America pointed out that the lack of notification of states of emergency had been a factor in the international community being unaware of the extent of human rights violations in many countries of the region during the period they spent under military dictatorship.

76. Several speakers also stated that the measures adopted must be in proportion with the scope of the crisis itself and that a certain number of rights must at all times be exempt from any derogation. Reference was made in particular to the right to life and the right not to be subjected to torture or to cruel, inhuman or degrading treatment.

77. Certain speakers referred to the question of the scope of powers of detention devolved on the Executive during states of emergency and cited the fact that a detainee must be placed under the authority of the Judiciary as a guarantee working in his/her favour.

78. Many speakers expressed their repudiation of the practice of torture, the risk of which is especially great when a state of emergency is declared and sweeping powers have been devolved to the police and security forces.

V. ACTION UNDERTAKEN BY THE SPECIAL RAPPORTEUR UNDER THE PROCEDURE ESTABLISHED IN HIS WORKING METHOD

A. Database on states of emergency

79. In paragraph 9 of its resolution 1992/22, the Sub-Commission invited the Special Rapporteur to continue and expand his contacts and to hold consultations with appropriate technical institutions and experts with a view to receiving, storing and retrieving information relating to matters relevant to his mandate.

80. Pursuant to this provision, the Special Rapporteur again organized, in cooperation with the Centre for Human Rights, a meeting of experts on the question of a database on states of emergency and related human rights concerns, which was held on 2-3 March 1993 at the Palais des Nations at Geneva.

81. The meeting was attended by representatives of most of the bodies which currently operate or are developing human rights databases, including the Office of the United Nations High Commissioner for Refugees (UNHCR), the International Labour Organisation (ILO), the Council of Europe, HURIDOCS, the Centre for International and Comparative Human Rights in Belfast, the Arab Institute for Human Rights in Tunis. Representatives of a number of other bodies, including the Netherlands Centre for Human Rights (SIM), the African Centre for Democracy and Human Rights Studies at Banjul and the Centre for Human Rights at Hong Kong University, who were unable to attend, asked to be kept informed of developments.

82. Each of the participating institutions gave an account of its current and proposed programmes and of potential forms of cooperation. In each case the particular form of the database had been dictated by the needs of its users, both internal and external. For example, the various ILO databases were designed primarily to provide rapid access for ILO officials and participating agencies to the full range of ILO conventions, decisions, reports and relevant national legislation. The UNHCR databases had likewise been developed primarily for use within the organization and by specialist national agencies. The Queens University of Belfast states of emergency database was being developed in a similar way to meet the particular needs of those interested in monitoring human rights abuses under states of emergency and related regimes.

83. It was generally agreed:

(a) That since these and other databases served a particular purpose it would not be appropriate to attempt at this stage to establish any single comprehensive human rights database;

(b) That every effort should be made to avoid the duplication of effort and expenditure in the collection of data;

(c) That non-confidential data, such as legislation in full text and case reports, should be recorded in such a way as to be readily available for use in other relevant databases.

84. The discussion centred on ways in which the sample entries in the database might be extended to other jurisdictions and made more immediately and directly relevant to those involved in monitoring and seeking to control human rights abuses during states of emergency. The Special Rapporteur was particularly anxious to have immediate access to details of the constitutionality of declarations of emergency. Others were concerned that as much well-attested information as to abuses should be included as possible. The general strategy of developing the database on a regional basis was approved.

85. Other points of agreement for the development of the database may be summarized as follows:

(a) The database should be developed on the model of the sample entries prepared in Belfast with the addition of well-attested information on the nature and incidence of human rights abuses;

(b) The database should be extended in collaboration with a number of regional centres and funding for this development should be sought from appropriate sources by individual centres on a cooperative basis;

(c) The material in existing entries should be made available to the human rights community through a generally accessible computer network as soon as was feasible.

86. The participants agreed to work more closely together in the pursuit of these objectives and to arrange further meeting on an annual basis.

B. Guidelines for national legislation and the issue of non-derogable rights

87. As already indicated, the Special Rapporteur has received and continues to receive valuable and pertinent observations, from both governmental and non-governmental sources, concerning the draft guidelines for the development of legislation on states of emergency, and hopes to be in a position to present in his next reports much fuller draft guidelines than those contained in his fourth annual report. Somewhat similar comments might be again made concerning paragraph 7 of Sub-Commission resolution 1993/28, which requests the Special Rapporteur to examine the question of non-derogable rights, i.e. those from which there can be no derogation whatsoever, whatever the cause or gravity of the emergency.

Annex I

LIST OF REPLIES AND OTHER COMMUNICATIONS RECEIVED*

A. Governments

Australia	12 March 1993
Austria	5 March 1993
Bangladesh	1 April 1993
Barbados	18 February 1993
Burkina Faso	10 June 1993
Cameroon	29 December 1992
Chile	28 April 1993
Colombia	27 January and 27 April 1993
Dominica	27 January 1993
Estonia	15 March 1993
Guatemala	30 June 1993
Guyana	24 March 1993
Iraq	4 March 1993
Ireland	22 January 1993
Jordan	12 July 1993
Malta	17 March 1993
Mauritius	2 March 1993
Mexico	31 March 1993
Moldova	25 June 1992
Myanmar	22 January 1993
Poland	22 March 1993
Romania	8 April 1993
Russian Federation	4 November and 21 December 1992; 28 June, 11 August and 4 October 1993
Senegal	17 March 1993
Trinidad and Tobago	12 March 1993
Tunisia	4 January 1993
Venezuela	1 April 1993

B. Intergovernmental organizations

Inter-American Commission on Human Rights	11 January 1993
League of Arab States	4 April 1993

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* Since November 1992, when the fifth revised report was issued (E/CN.4/Sub.2/1992/23/Rev.1).

C. United Nations bodies

Division for Palestinian Rights	18 January 1993
Economic and Social Commission for Asia and the Pacific	30 December 1992

D. Non-governmental organizations

Amnesty International	10 March 1993
Latin American Human Rights Association	27 January 1993

Annex II

LIST OF SPECIALIZED PUBLICATIONS RECEIVED FROM AMNESTY INTERNATIONAL

INDONESIA/EAST TIMOR:	The suppression of dissent (ASA 21/09/92)
KUWAIT:	Cases of "disappearance", incommunicado detention, torture and extrajudicial execution under martial law (MDE 17/02/92)
LESOTHO:	Torture, political killings and abuses against trade unionists (AFR 33/01/92)
MYANMAR:	"No law at all": human rights violations under military rule (ASA 16/11/92)
PERU:	Summary of Amnesty International's concerns since 1983 (AMR 46/03/92)
PERU:	Human rights during the government of President Alberto Fujimori (AMR 46/18/92)
REPUBLIC OF SOUTH KOREA	Amnesty International's concerns (ASA 25/14/92)
SOUTH AFRICA:	State of fear: security force complicity in torture and political killings, 1990-1992 (AFR 53/09/92)
SYRIA:	Long-term detention and torture of political prisoners (MDE 24/12/92)
TURKEY:	Torture, extrajudicial executions, "disappearances" (EUR 44/39/92)
UNITED KINGDOM:	Fair trial concerns in Northern Ireland: the right of silence (EUR 45/01/93)

Notes

1/ In this letter, the Permanent Representative of Guatemala, having acknowledged that "there recently arose in Guatemala a sui generis situation in which, by means of a presidential decree, an attempt was made to limit some constitutional guarantees and to dissolve two of the organs of the State", stated, inter alia, that:

> "In this decree the operation of some articles of the Constitution of the Republic was suspended; as a result some constitutional guarantees, such as freedom of information, assembly and demonstration, were suspended and the Congress of the Republic, the Supreme Court of Justice and the Constitutional Court were dissolved.
>
> "However, on the same day the Constitutional Court handed down a ruling in which it declared the decree issued by the President of the Republic to be unconstitutional and all acts performed by the President ipso jure null and void. That is to say, the decree issued by the President, being totally unconstitutional, never had any legal force or validity.
>
> "The restrictions on constitutional guarantees which existed for a few days, especially those on freedom of information and expression, were implemented de facto by order of the former President".

2/ As early as 1978, the Inter-Parliamentary Council stated - on the occasion of the study of violations of human rights affecting parliamentarians, brought to its attention by the Committee on the Human Rights of Parliamentarians - that "under the terms of Article 4 of the International Covenant on Civil and Political Rights (...) the derogatory measures which it authorizes can only be of an exceptional and transitory nature".